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January 19, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission-
The Portals - TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

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JAN 19 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte
Advanced Services Rulemaking
CC Docket No. 98-147

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's rules, 47 C.F.R. Sections 1.1206(b)(1) and (2), I am providing this notice of an oral and written *ex parte* presentation in the above-captioned matter.

On January 15, 1999, myself, Kay Burin, Vice President/Data Services, KMC Telecom, Inc., Mike Duke, Director of Regulatory Affairs, KMC Telecom, Inc. and Jonathan Draluck of this firm met with Thomas Power, Office of Chairman William Kennard, by teleconference and presented views concerning issues in the above-captioned proceeding. We presented views described in the attached outline of the presentation which was provided earlier in the day to Mr. Power.

Two copies of this letter are enclosed.

Sincerely,



Patrick Donovan

cc: Thomas Power

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Expediting Deployment of Advanced Services

Kay Burin

Vice President-Data Services

KMC Telecom

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January 15, 1999

Topics of Discussion

- KMC Strategies
- Collocation and Unbundled Network Elements
- InterLATA Relief
- Separate RBOC Subsidiary

KMC Telecom

- KMC is authorized to provide competitive services in 18 states and Puerto Rico
- Through its fiber optic-based switching systems deployed to date, KMC provides services in Tier III markets in Huntsville, Melbourne, Pensacola, Sarasota, Tallahassee, Savannah, Augusta, Topeka, Baton Rouge, Shreveport, Greensboro, Winston-Salem, Corpus Christi, Roanoke and Madison
- KMC is planning to serve surrounding Tier IV markets
- KMC is planning to extend its service into the residential market

KMC Offers Advanced Services

- ClearStar™ -- Centrex-based voice data applications/ISDN
- Facilitating Dynamic Bandwidth through HDSL
- Port Wholesaling
 - ◆ Remote Access and SS7 Gateways
- Wideband Access Management, including integrated 5ESS Platforms

Collocation and Unbundled Network Elements -- Enforcing and Strengthening Obligations

- KMC applauds reports that the Commission will adopt strengthened collocation and unbundling requirements
- Collocation and UNEs are required for CLEC provisioning of advanced services
- Nondiscriminatory access to collocation space and network elements will subject RBOCs to competitive pressures, thereby encouraging deployment of advanced services

InterLATA Relief

-- Legal Requirements

- Statutory mandate of Section 271 is clear
- Under the current regime, RBOCs themselves have control over InterLATA Relief
- Section 706 does not overturn compliance with the 14-point competitive checklist

InterLATA Relief

-- Policy Considerations

- No Commission action is necessary to promote advanced services in rural areas
 - ◆ Market demand will attract all providers
- RBOCs do not (or should not) have a unique advantage to offer advanced services
- RBOCs have recently announced major ADSL initiatives: SBC, Bell Atlantic/AOL
- CLECs can and will offer such services

InterLATA Relief -- Policy Considerations (continued)

- Commission should not abandon carrot and stick approach of Act
- No better incentive to offer advanced services than mechanisms already in place:
 - ◆ Vigorous enforcement of Section 271 and Competition itself
- No current need to protect rural end users, who enjoy the same access to the Internet as urban customers

Separate RBOC Affiliates

-- Legal Definition

- Section 251(h) bars ILECs from sidestepping their market-opening obligations
- Section 272 obligations do not make an affiliate a non-ILEC for these purposes
- Proposed separations are inadequate
 - ◆ Outside ownership
 - ◆ Joint Marketing
 - ◆ UNEs, Collocation and CPNI on same terms and conditions

Separation Requirements

- Additional safeguards are critical
 - ◆ transfer of facilities
 - ◆ resale obligations
 - ◆ spectrum sharing
 - ◆ extended link

Separate RBOC Affiliates -- Policy Considerations

- Network bifurcation could result in effective deregulation of all new services
- Separation of data affiliates will eliminate incentives to maintain and improve public switched network



Conclusion

- FCC should abandon the separate affiliate initiative
- FCC should not provide interLATA relief absent Section 271 compliance